

BEFORE THE NATIONAL INDIAN GAMING COMMISSION

**IN RE: Amendment to Metlakatla)
 Indian Community's)
 Gaming Ordinance)**

**APPLICATION OF THE OKLAHOMA INDIAN GAMING
ASSOCIATION AUTHORIZING IT UNTIL SEPTEMBER 1, 2008
TO FILE REQUEST TO PARTICIPATE**

Comes now the Oklahoma Indian Gaming Association ("OIGA") and by this Application requests this Commission to authorize the OIGA until September 1, 2008 to submit a Request to Participate in this Appeal pursuant to 25 CFR § 524.2. As grounds for this Application, the OIGA shows this Commission that:

1. On Friday, July 11, 2008 the Commission's counsel notified the Commissioners of the briefing schedule attached hereto as Exhibit 1. That schedule contemplated that interested parties would have ten days after the Tribe's reply to the Chairman's response to the Appeal in which to seek "Limited Participation." Valid reason exists for that ten day time period so that interested parties might both address the substance of the Tribe's reply, if necessary, and also avoid repetition of any arguments contained in that reply.

2. On August 8, 2008, the Commission granted the Appellant's application for extension of time until August 21, 2008 in which to reply to the Chairman's brief in support of his denial of approval of the ordinance amendment authorizing use of auto-daub technological aids. That order granting the appellant's extension denied an extension in which those such as the OIGA could request to participate in the appeal pursuant to 25 CFR § 524.2, preserving the ten day period to seek "Limited Participation" contained in the July 11 schedule.

3. The OIGA has twenty-eight tribal members engaged in the play of Class II Bingo using an auto-daub technological aid resulting in an annual impact on the Oklahoma economy in excess of \$1 billion.

4. If the appeal is decided by the Commission on the merits affirming the Chairman's decision, such action could have adverse impact on OIGA members through enforcement actions and court actions premised on alleged final agency action.

5. The OIGA, as demonstrated by the Commission's website, has been preparing for and staging its annual tradeshow, which activity requires the requested extension in order to have adequate time to finalize the content of its Request to Participate. Such an extension will serve the interests inherent in the initial briefing schedule's allowance of ten days after the Tribe's reply for interested parties to seek "Limited Participation."

6. Since the granting of the extension of the appellant's time to reply of ten days did not prejudice the Chairman or the Commission, an identical extension for the OIGA likewise should create no prejudice to the appellant, the Chairman or the Commission.

7. No legitimate reason exists for the Commission to treat the appellant more favorably than the OIGA, on whose members any merits decision could ultimately cause an exponentially greater financial impact than any impact on the appellant.

Respectfully submitted,



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and

Hoenig, Michael

From: Getoff, Maria J
Sent: Friday, July 11, 2008 10:52 AM
To: Hogen, Phil; DesRosiers, Norm
Cc: Hoenig, Michael
Subject: Metlakatla Briefing Schedule

July 28 Date by which Chairman will file a Response to the Appeal

August 11 Date by which Tribe will file a Reply

August 21 Date by which interested parties have been told to seek Limited Participation (Commission will forward all requests to Tribe and Chairman's counsel as they come in).

Chairman and Tribe may respond to limited participation requests (and substantive arguments therein) within 10 days of receipt of same.

October 6 Commission Decision Due

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